

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket № 14046US02)

In the Application of:

Jeyhan Karaoguz, et al.

Serial No. 10/606,503

Filed: June 26, 2003

For: COMMUNICATION SYSTEM  
AND METHOD FOR  
DISCOVERING END-POINTS  
THAT UTILIZE A LINK LAYER  
CONNECTION IN A  
WIRED/WIRELESS LOCAL  
AREA NETWORK

Examiner: Lawrence J. Burrowes

Group Art Unit: 2616

Confirmation No. 5221

***Electronically Filed on 28-MAR-2008***

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on December 28, 2007 ("Final Office Action") with a period of reply through March 28, 2008. No amendments are being filed with this request.

**This request is being filed with a Notice of Appeal.** The review is being requested for the reasons stated on the attached sheets.

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-25, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-4, 7-9, 13-16, and 19-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,049,533, issued to Norman et al. ("Norman"), in view of U.S. Patent No. 5,896,373, issued to Mitts, et al. ("Mitts"). Claims 5, 6, 11, 12, 17 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Norman, in view of Mitts, and further in view of U.S. Patent No. 4,481,670, issued to Freeburg ("Freeburg"). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

#### **I. Examiner's "Response to Arguments"**

The Examiner states the following in pages 5-6 of the Final Office Action:

Mitts disclose a requester (see Figure 1 Box 5) requesting from said at least one of a plurality of access points (see Figure 2a RR\_Status\_Enquiry and column 5 lines 41-51, switch requests the status of AP1), a status of at least one access point device (MT1) located within a coverage area of the at least one of plurality of access points (AP1 or AP2) (the message sent from CS can be sent to any access point and can include any mobile terminal which is connect to the access point).

Based on the above argument by the Examiner and referring to FIG. 2a of Mitts, the Applicant points out the relevant claim limitation from Applicant's claim 1 is as follows: "requesting **(by the requester, switch 5 of Mitts according to the Examiner, and via the RR\_STATUS\_ENQUIRY message)** from said at least one of a plurality of access points **(AP1 – AP3)**, a status of said at least one access device **(the mobile terminal MT1)** located within said coverage area of said at least one of a plurality of access points." **However, the Applicant points out that the RR-STATUS ENQUIRY message does not result in any status determination of the access device MT1, as alleged by the Examiner. The Examiner is referred to the detailed explanation herein below.**

#### **II. The Proposed Combination of Norman and Mitts Does Not Render Claims 1-4, 7-9, 13-16, and 19-25 Unpatentable**

The Applicant now turns to the rejection of claims 1-4, 7-9, 13-16, and 19-25 as being unpatentable over Norman in view of Cromer.

**A. Independent Claim 1**

With regard to the rejection of independent claim 1 under 103(a), the Applicant submits that the combination of Norman and Mitts does not disclose or suggest at least the limitation of "requesting from said at least one of a plurality of access points, a status of said at least one access device located within said coverage area of said at least one of a plurality of access points," as recited by the Applicant in independent claim 1.

With regard to Norman, the Final Office Action concedes the following:

Norman disclose all of the subject matter of the claimed invention except a requester (see Figure 2 Box 222, AP programmed to request) sending/requesting from the at least one of a plurality of access points, a status of the at least one access device located within a coverage area of the at least one of a plurality of access points and receiving from the at least one of a plurality of access points within whose coverage area the at least one access device is located, at least one status reply message indicating a status of the at least one of a plurality of access devices.

See the Office Action at page 5 (emphasis added). The Examiner then relies on Mitts and states the following:

Mitts from the same or similar fields of endeavor teaches a requester (see Figure 1 Box 5) sending/requesting from the at least one of a plurality of access points, a status of the at least one access device located within a coverage area of the at least one of a plurality of access points (Figure 2a and column 5 lines 41-51, the requester sends and receives a status message or reply from the access point) and receiving from the at least one of a plurality of access points within whose coverage area the at least one access device is located, at least one status reply message indicating a status of the at least one of a plurality of access devices (Figure 2a and column 5 lines 41-51, the access point replies with a status message).

See the Office Action at page 5. The Applicant respectfully disagrees with the above argument. Referring to Figure 1 of Mitts, the Examiner alleges that switch 5 is the "requester", or the device which performs the "requesting" limitation from Applicant's claim 1. The Examiner further relies on the following citation:

When the mobile terminal 1 senses that the connection to the old access point 2 is weakening, it makes a decision to start the handover procedure. **The mobile terminal 1 sends a HO\_REQUEST message, which the access point 2 transmits to the switch 5.** The message contains, among others, a list in order of preference of those access points to which the mobile terminal 1 can hand

over, i.e. that it hears. As a response to the HO\_REQUEST message, the switch 5 can now select the new access point directly, or it can send a status enquiry, i.e. a RR-STATUS\_ENQUIRY message to all access points in the list or to only part of them in order to find out how the different access points could take over the new connection. Now each access point that has received the status enquiry checks the situation, makes a preliminary reservation of the required resources and responds to the switch with a RR-STATUS message to indicate whether the connection can be transmitted or not and what is the identifier of the preliminary reservation.

See Mitts, col. 5, lines 34-51. With regard to the HO\_REQUEST message, as clearly stated in the above citation, it is the mobile terminal 1 (Figure 2a of Mitts), and not the switch 5 (equated by the Examiner to the "requester") that sends the HO\_REQUEST message to the access point 2, and then to the switch 5. With regard to the RR-STATUS\_ENQUIRY message, Mitts discloses that the switch 5 sends this status enquiry to the access points 2 for purposes of finding out "how the different access points could take over the new connection." More specifically, in response to the status enquiry message from the switch 5, each access point "checks the situation, makes a preliminary reservation of the required resources and responds to the switch with a RR-STATUS message to indicate whether the connection can be transmitted or not and what is the identifier of the preliminary reservation." See Mitts at col. 5, lines 46-51. In this regard, Mitts does not disclose or suggest that the switch, via the RR-STATUS\_ENQUIRY message, requests from the access points "a status of said at least one access device (i.e., one or mobile terminals) located within said coverage area of said at least one of a plurality of access points." Also, in response to the RR-STATUS\_ENQUIRY message, none of the access points 2 provide "a status of said at least one access device (i.e., one or mobile terminals) located within said coverage area of said at least one of a plurality of access points," as recited in Applicant's claim 1.

Therefore, the Applicant maintains that the combination of Norman and Mitts does not disclose or suggest at least the limitation of "requesting from said at least one of a plurality of access points, a status of said at least one access device located within said coverage area of said at least one of a plurality of access points," as recited by the Applicant in independent claim 1. Accordingly, the proposed combination of Norman and Mitts does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Applicant submits that claim 1 is allowable.

Independent claims 7, 13, and 19 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 7, 13, and 19 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-4, 8-10, 14-16, and 20-25**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 7, 13, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Norman in view of Mitts has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-4, 8-10, 14-16, and 20-25 depend from independent claims 1, 7, 13, and 19, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-4, 8-10, 14-16, and 20-25.

**III. The Proposed Combination of Norman, Mitts and Freeburg Does Not Render Claims 5, 6, 11, 12, 17 and 18 Unpatentable**

The Applicant maintains the arguments appearing in pages 20-21 of the September 26, 2007 response.

**IV. Conclusion**

The Applicant respectfully submits that claims 1-25 of the present application should be in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 28-MAR-2008

By: /Ognyan I. Beremski/  
Ognyan Beremski, Reg. No. 51,458  
Attorney for Applicant

McANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, 34th Floor  
Chicago, Illinois 60661  
Telephone: (312) 775-8000  
Facsimile: (312) 775 – 8100

(OIB)